APPEAL NO. 111738
FILED JANUARY 19, 2012

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on October 17, 2011. With regard to the three issues before her the hearing officer determined: (1) the respondent (claimant) sustained a compensable left upper extremity (UE) injury on (date of injury); (2) the compensable injury includes right wrist carpal tunnel syndrome (CTS); and (3) the claimant had disability from June 24, 2011, through the date of the CCH.

The appellant (carrier) appealed, contending that: (1) the claimant's conditions are ordinary diseases of life; (2) any injury the claimant may have had does not include an injury to the right extremity as claimed; and (3) the claimant did not have any disability as that term is defined because the claimant had not sustained a compensable injury. The claimant responded, urging affirmance of the hearing officer's decision.

DECISION

Affirmed in part and reversed and rendered in part.

The claimant testified that she was a money room clerk, counting money, mostly dollar bills brought in by drivers from various vending machines. The claimant testified in detail how she counted the money and that she spent 4 to 6 hours a day counting money using her left hand. The employer's manager and the claimant's supervisor, agreed that the claimant spent 5 to 5 1/2 hours a day counting money and that most of the money was in dollar bills.

The parties stipulated that (Dr. R) was the designated doctor on the issue of whether an injury resulted from the claimed incident and that if the claimant had disability, the only period in dispute was from June 24, 2011, through the date of the CCH.

COMPENSABLE INJURY AND DISABILITY

The hearing officer's determinations that the claimant sustained a compensable left UE injury on (date of injury), and had disability from June 24, 2011, through the date of the CCH are supported by sufficient evidence and are affirmed.

RIGHT WRIST CTS

The claimant was initially seen by (Dr. H) on October 20, 2010,[1] complaining of left arm pain. Subsequently she was seen at (CMC) on November 22, 2010, for left arm pain and numbness. The assessment was "wrist pain." The claimant was seen by Dr. R, the designated doctor, on April 5, 2011. Dr. R only noted left arm and hand complaints and diagnosed traumatic arthritis, left first carpometacarpal joint and repetitive irritation of the left first carpometacarpal joint. There were no documented complaints of right wrist pain or numbness.

The claimant testified that she did not begin having right UE complaints until May 2011. The claimant was seen by (Dr. G), a post-designated doctor required medical examination doctor on May 31, 2011. Dr. G did not note any right wrist complaints and only commented on the left carpometacarpal arthritis by writing that the "'injury' history is the left only . . . ."

(Dr. M), a doctor at CMC, referred the claimant for an electromyogram and nerve conduction study (EMG) which was performed on June 28, 2011. The EMG report stated:

> Nerve conduction studies were done on select nerves of the left and right [UE]. Abnormalities included prolongation of the sensory nerve action potential latency on orthodromic stimulation of both median nerves across the wrists, consistent with clinical diagnosis of [CTS] which appears mild or early, slightly worse on the left side than the right. Examination of the median motor nerve revealed no prolongation of distal latencies.

Dr. M's follow-up report dated August 17, 2011, documented that the claimant stated: "she was seen at [CMC] for [left] hand overuse injury. She [had] an EMG which showed [bilateral] CTS, worse on [left] than [right]." Dr. M had an impression of left CTS. There is no other mention of right wrist CTS.

There is insufficient medical evidence to address how the claimant's work may have caused right wrist CTS which was not mentioned until over nine months after the date of injury. The Texas courts have long established the general rule that "expert testimony is necessary to establish causation as to medical conditions outside the common knowledge and experience" of the fact finder. Guevara v. Ferrer, 247 S.W.3d 662 (Tex. 2007). The Appeals Panel has previously held that proof of causation must be established to a reasonable medical probability by expert evidence where the subject

[1] We note that there was no issue regarding the date of injury and that the claimant sustained a work-related repetitive trauma injury.

is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. Appeals Panel Decision 022301, decided October 23, 2002. *See also* City of Laredo v. Garza, 293 S.W.3d 625 (Tex. App.-San Antonio 2009, no pet.) citing Guevara. In this case, there is no medical evidence that causally connects the EMG finding to the work injury. The mere fact that an EMG finding of "CTS which appears mild or early, slightly worse on the left side than the right" is insufficient to show the right wrist CTS is related to the original work injury within a reasonable medical probability as required by Guevara and Laredo.

In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. *See* Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). In this case, we hold the hearing officer's decision that the compensable (date of injury), injury includes right wrist CTS to be so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust.

Accordingly, we reverse the hearing officer's determination that the compensable (date of injury), injury includes right wrist CTS and we render a new decision that the compensable (date of injury), injury does not include right wrist CTS.

The true corporate name of the insurance carrier is **ACADIA INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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IRVING, TEXAS 75039-2094.

Thomas A. Knapp
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Margaret L. Turner
Appeals Judge